

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 1622 of 1996

For Approval and Signature:

Hon'ble THE CHIEF JUSTICE G.D.KAMAT

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ZAKIRHUSEIN ANVARHUSEIN                      SHAIKH

Versus

DIST COLLECTOR

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Appearance:

PARTY-IN-PERSON for Petitioner

Mr.M.R. Anand, PUBLIC PROSECUTOR, with

Mr.L.R. Pujari, Addl. P.P., for Respondent No. 1

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CORAM : THE CHIEF JUSTICE G.D.KAMAT

Date of decision: 09/12/96

#### ORAL JUDGEMENT

Petitioner is the mother of Zakirhusein Anvarhusein Shaikh. He has been convicted under Section 3 of the T.A.D.A. read with Sections 143, 149, etc., of the Indian Penal Code and sentenced to eight years' imprisonment. His sentence was, however, reduced by the Supreme Court to five years. It is common ground that by now, prisoner Zakirhusein has undergone sentence of nearly three years and five months.

The mother applies for his release on parole on the ground that the prisoner Zakirhusein suffers from Falciparum. Last time when the matter came up on Board, I called upon the learned Additional Public Prosecutor to find out the details of the prisoner as also his illness. From the history given by the APP, it is clear that prisoner was suffering from Jaundice, with the result he was treated as indoor patient in Infectious Disease Hospital at Baroda, some time by end of September, 1996. He was again taken to the Hospital and treated between 5th of October, 1996 and 19th of October, 1996. He was

again taken to the Hospital for follow up action between 7th of November, 1996 and 21st of November, 1996. Further story of the matter is that the prisoner Zakirhusein has enjoyed parole five times and furlough once, but, however, at one stage, when he was released on parole, he committed breach and returned late by 119 days. In any case, prisoner had been granted parole thereafter and the enjoyed the same between 19th of April, 1996 and 27th of April, 1996. The applicant-mother, however, insists that the health of the prisoner is not all right. The fact, however, remains that though she claims that her son is suffering from Falciparum, there is a categorical statement from the Jail Authorities that he does not suffer from such an illness. In any event, the petitioner has enjoyed parole in April, 1996. The petitioner is, therefore, at liberty to apply in the year 1997. Petition otherwise is dismissed. Rule is discharged.

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(apj)